THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.24341 of 2005

Date:28.11.2005

Md.M.Mohinuddin

--------PETITIONERS

The Depot Manager, APSRTC

Devarakonda Bus Depot,

Nalgonda district

---------RESPONDENT

ORDER:

The petitioner is a driver in the A.P.S.R.T.C. On 28.05.2001, when he was driving a bus at about 20.00 hours, an accident took place resulting in injuries to a Scooterist. In view of the same, he was issued a charge sheet dated 26.12.2001. Petitioner denied the charges and a departmental enquiry was conducted. The enquiry officer submitted his report holding that the petitioner is guilty of charges. Basing on the same, respondent passed an order, dated 09.04.2003, imposing the punishment of withholding of annual increment for a period of two years with cumulative effect. Petitioner challenges the same by filing appeal as well as review unsuccessfully. Hence, this writ petition.

Heard learned counsel for the petitioner and learned standing counsel for respondent.

It is true that the enquiry officer found the petitioner guilty of the charges. This finding was mainly on the basis that the passengers statements were recorded by the petitioner himself. Whatever may be the credibility of such statements, the fact remains that the only eye witnesses to the incident were the conductor of bus and the passengers. All of them uniformly spoke to the fact that on noticing that a scooterist was coming in a
zig zag manner, the petitioner took the bus to the left side, and even after it was stopped, the Scooterist came and hit the bus. Added to this, the statement recorded from the Government Medical Officer, who treated the scooterist, indicated that the latter was in an intoxicated condition. The road appears to be a little narrow.

The enquiry Officer did not hold the petitioner guilty of any negligence, but only pointed out that he ought to have been more careful. There cannot be any doubt about it. But imposition of a major penalty, on such grounds, does not appear to be proper, Instead the punishment can be treated as the one without cumulative effect and the petitioner be denied the benefit of arrears on that account.

The writ petition is accordingly allowed in part directing that the punishment imposed against him shall be treated as one without cumulative effect, and he shall not be entitled to the arrears of increments on that count. There shall be no order as to costs.

28.11.2005

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